

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

REBECCA REAM and JUSTIN
REAM, as co-guardians for CHRIS
BINGHAM,

Plaintiffs,

vs.

BRITTANY MARKER, RN and
LARRY SOHLER, RN, in their
individual capacities,

Defendants.

8:21-CV-288

ORDER

The Court has received several motions from Chris Bingham, which the Court reads as seeking to reopen the claims made on his behalf in this case. *Compare* [filing 40 at 3](#), *with* [filing 1 at 4](#). However, this Court found that Mr. Bingham is incapacitated, and unable to represent his own interests. *See* [filing 22](#); [filing 21](#); *see also* [filing 20](#). That's why he was—without objection—replaced as the plaintiff in this case, to which he is no longer a party. [Filing 22](#).

Nothing Mr. Bingham has filed indicates his incapacity has been lifted. And under Nebraska law, that means he can't sue anyone. *See Carlos H. v. Lindsay M.*, 815 N.W.2d 168, 173 (Neb. 2012); *see also* Fed. R. Civ. P. 17(b)(1) (individual's capacity to sue determined by law of individual's domicile).

If Mr. Bingham believes that he is no longer incapacitated or that his guardians are not representing his best interests, his remedy is to seek their replacement or removal from the County Court of Scotts Bluff County, Nebraska, pursuant to [Neb. Rev. Stat. § 30-2623](#). He can do so by sending a letter to that court at: Clerk of the Court, County Court of Scotts Bluff County, 1725 10th Street, Gering, NE 69341.

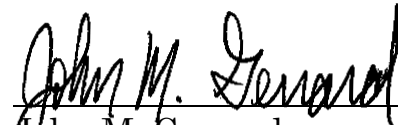
But while Mr. Bingham remains legally incapacitated, he cannot prosecute this action. Accordingly, the Court will deny his motions, without prejudice to reassertion by a party with capacity to sue.

IT IS ORDERED:

1. Mr. Bingham's Motion to Proceed In Forma Pauperis ([filing 39](#)) is denied without prejudice.
2. Mr. Bingham's Motion to Appoint Counsel ([filing 40](#)) is denied without prejudice.
3. Mr. Bingham's Motion to Establish Trust ([filing 41](#)) is denied without prejudice.
4. The Clerk of the Court is directed to provide a copy of this order to Mr. Bingham at his last known address.

Dated this 22nd day of September, 2023.

BY THE COURT:



John M. Gerrard
Senior United States District Judge